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In the Supreme Court of the United States

OCTOBER TERM, 1966

No. 486

JOS. SCHLITZ BREWING COMPANY, APPELLANT

v.

UNITED STATES OF AMERICA AND GENERAL BREWING COMPANY

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

MOTION TO AFFIRM

Pursuant to Rule 16(1)(c) of the Rules of this Court, the United States moves that the judgment of the district court be affirmed.

STATEMENT

This is a direct appeal from the final judgment of the district court which held that appellant, the Joseph Schlitz Brewing Company ("Schlitz"), the nation's second largest brewer, violated Section 7 of the Clayton Act, 15 U.S.C. 18, by acquiring all of the assets of the Burgermeister Brewing Corporation ("Burgermeister") in 1961, and 39.3 percent of the common stock of John Labatt, Ltd. ("Labatt") in

1964. The judgment requires Schlitz to dispose of its interest in Burgermeister and to divest its holdings of Labatt stock.

THE FACTS

The Brewing Industry. Since the repeal of prohibition, the number of brewing companies operating in the United States has declined radically. In 1952, there were 307 brewing companies; in 1964, only 144 (Fdg. 43, J.S. 13a). As the number of producers has declined, concentration of beer sales among the larger firms has increased. The ten leading brewers accounted for approximately 40 percent of total domestic beer sales in 1953 and 60 percent in 1963. The leading twenty-five brewers increased their market share during the same 10-year period from 57 percent to 82 percent (Fdg. 44, J.S. 13a).

This "steady trend toward economic concentration" (*United States* v. *Pabst Brewing Co.*, 384 U.S. 546, 550) has been characterized by the acquisition of prosperous regional firms by the largest firms in the industry (Fdg. 48, J.S. 13a–14a). Concentration in regional markets, which is steadily increasing (PX 28;[1] Fdg. 46, J.S. 13a), is often higher than in the national market. Thus, in 1963, while the nation's ten largest firms accounted for 60 percent of all beer sold nationally (Fdg. 44, J.S. 13a), the ten largest brewers in the relevant eight-State western market accounted for more than 86 percent (PX 29; App. B

[1] Citations to Plaintiff's Exhibits (PX), and to the Transcript (Tr.), are to the record, which has not been printed, but is lodged in the office of the Clerk of this Court.

infra, p. 31),[2] and California's ten largest brewers accounted for 94 percent of all beer sold in that region (PX 32; App. C, *infra,* p. 51). Finally, barriers to entry are very high in the beer industry (Fdg. 49, J.S. 14a).

Acquisition of Burgermeister. Schlitz—the second largest brewer in the nation at the time of both acquisitions involved here—is a firm with annual sales in excess of $300 million (Fdg. 38, J.S. 12a (1964 sales)). Its share of national beer sales rose from 6.5 percent (prior to the acquisition of Burgermeister) to 10.45 percent (after the acquisition of General Brewing) (App. A, *infra,* p. 27).

In the years immediately prior to 1960, Schlitz was not very successful in selling its premium brand in the large, rapidly growing West Coast beer market. By 1960 Schlitz, the second brewer in the nation, ranked only eleventh in California, accounting for 3.9 percent of all sales in that State. Schlitz determined that "the need for a second brand—a popular priced one—on the West Coast is great" (PX 2, p. 2). It seriously considered introducing its own brand, Old Milwaukee, into California to increase its sales there, but ultimately decided to acquire Burgermeister instead (Fdg. 116–118, J.S. 25a).

Burgermeister, producer of the very popular Burgermeister brand beer, was a strong competitor on the West Coast (Fdg. 95, J.S. 21a). Although it sold beer only in the West, and mostly in California, it had for many years competed successfully against national brewers (App. C. *infra,* pp. 33, 35–50). In

[2] "App." references are to Appendices A–D to the district court's opinion which are reprinted as Appendices A–D to this motion.

1960 the Miller Brewing Company offered to buy Burgermeister after investigation revealed that Burgermeister had a "good product, a good plant and the strongest distributor organization of any of the brewers in the state" (Tr. 158). On December 29, 1961, Schlitz bought all of the assets of Burgermeister for $12,039,250 (Fdg. 97, J.S. 22a).

Shortly before the acquisition, Schlitz, in response to a Department of Justice request, submitted to the Department certain information. After considering this information, officials of the Department orally advised counsel for Schlitz that the Department was not prepared to take any action at that time to block the acquisition, and, in fact, the Department took no action for two years (Fdg. 83, J.S. 19a–20a). Schlitz was aware that the Department of Justice maintained a formal procedure for reviewing business transactions under which a written request is made for a statement of the Department's intent and the Department gives a written statement to the effect that it can or cannot assure the requesting party that it then does not intend to bring suit (Fdgs. 83–86, J.S. 19a–20a). Schlitz did not invoke this procedure. As the trial judge found, the record in this case "is barren of any proof that the Department of Justice gave clearance to the acquisition of Burgermeister by defendant, Schlitz" (Fdg. 84, J.S. 20a).

The acquisition combined Schlitz, the eleventh largest brewer in California,[3] with 3.9 percent of all sales, and Burgermeister, the third largest brewer, with 10.7 percent of all beer sales. This gave Schlitz 14.6 per-

[3] See *infra* p. 11 and n. 11 for the relevant geographical markets found by the district court.

cent of the California market (Fdgs. 101–102, J.S. 22a–23a).[4] The acquisition also united the seventh largest and the eleventh largest brewers in the eight western States and increased Schlitz's share of that market from 5.7 percent to 9 percent (App. B, *infra*, pp. 28–30).[5]

The Acquisition of Labatt. Labatt is the third largest brewer in Canada; it sold 21.6 percent of all beer in Canada in 1964 (Tr. 633). Labatt engages in interstate commerce in this country (Fdg. 76, J.S. 18a), and sells about $2 million worth of beer in the United States annually (Fdg. 68, J.S. 17a). Labatt controls 63.5 percent of the common stock of General Brewing Company ("General Brewing") (Fdg. 41, J.S. 12a).

In February 1964, Schlitz bought 39.3 percent of Labatt's stock, thereby obtaining control both of Labatt and of General Brewing (Fdgs. 39–41, J.S. 12a). While Schlitz claimed that it was interested in Labatt only because it wished to enter the Canadian beer market, the evidence on this point was disputed. The trial court (J.S. 38a) was "not con-

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[4] Market shares used here are based on 1960 sales of Burgermeister. Appellant's figures differ slightly because it uses market share figures for 1961. The district court found that Burgermeister's 1961 sales figures "are not reliable indicia of the effect of the * * * acquisition * * * because such sales were seriously distorted by the demoralizing effect of awareness, in the industry, its distributors and corporate personnel, of negotiations for the sale of Burgermeister which commenced in 1960" (Fdg. 104, J.S. 23a).

[5] The figures for the eight-State western market are drawn from 1961 sales data, despite the problem noted in n. 4, because the record does not contain 1960 sales figures for this regional market.

vinced [that,] from the outset of its negotiations with Labatt, Schlitz had no desire to control General Brewing. If this were true, Schlitz could have gone a great deal further in making sale of General Brewing a prerequisite for its purchase of Labatt stock."

The acquisition had the following effects. Nationally, it united Schlitz, the second largest brewer, with 8.35 percent of sales (in 1963), and General Brewing, the fourteenth largest brewer, accounting for 2.1 percent of sales (App. A, *infra,* p. 27), making Schlitz the nation's largest brewer with 10.45 percent of the market and giving the two leading brewers more than 20 percent (Fdg. 50, J.S. 14a). In the eight western States, the acquisition joined Schlitz, the fourth largest firm, with 10.0 percent of the market, and the second largest firm, General Brewing, with 13.3 percent of the market thereby making Schlitz by far the largest firm in that market with a 23.3 percent share (PX 29). In California, Schlitz, in 1963 the third largest brewer with a market share of 13.1 percent, by acquiring General Brewing, the second largest, increased its market share to 26.8 percent and became California's largest brewer—nearly twice as large as its closest rival (PX 32; Fdg. 56, J.S. 15a). In Hawaii, where General Brewing had long been the dominant brewer, accounting for 41.2 percent of all beer sales (in 1963), Schlitz's market share increased from 9.7 percent to 50.9 percent (PX 34; Fdg. 58, J.S. 15a).[6]

[6] Prior to the acquisition of Labatt and General Brewing, Schlitz had purchased the Hawaii Brewery Corporation, which had 10.8 percent of beer sales in Hawaii. If this share should

Labatt had planned to introduce its own premium-brand Labatt beer more widely in the United States, using the facilities of General Brewing (Fdg. 64, J.S. 16a) to overcome the high barriers to entry into the United States beer market (Fdg. 49, J.S. 14a). Labatt had also formulated, and partly put into effect, plans to expand General Brewing eastward to become a national brewer, and in connection with those plans had provided General Brewing with valuable practical and technical assistance (Fdgs. 61–64, J.S. 16a). The acquisition thus united a leading American brewer and two important potential competitors (Fdgs. 65–66, J.S. 16a–17a).

THE PROCEEDINGS

The Temporary Restraining Order. On February 19, 1964, the government filed a complaint challenging Schlitz's acquisition of Burgermeister and its proposed acquisition of Labatt. On the same day the government asked for a temporary restraining order to prevent the Labatt acquisition from being consummated. An order was entered—too late to prevent the Labatt acquisition—which, with Schlitz's acquiescence, enjoined Schlitz from exercising control over either Labatt or General Brewing.[7] On February 24 and 26, 1964, the court extended the order for an indefinite period with the consent of all parties.

had included in the market share of Schlitz, the latter would have had 20.5 percent before, and 61.7 percent after, acquiring General (PX 34).

[7] Schlitz's counsel told the court:

"What I am saying to the court, so that there is no mistake about this, is that we will be willing to bring the certificate out

Schlitz first asked to modify the temporary restraining order on April 21, 1965—more than a year after the government's complaint was filed—to allow it to negotiate a sale of General Brewing to the Heileman Brewing Company. After a full hearing the court accepted the government's argument that to allow Schlitz to sell General Brewing would decide in advance of trial one of the case's principal issues (Tr. of Pre-Trial Hearing, April 21, 1965, pp. 24–29, 34)—whether in order to eliminate the anticompetitive effects of the Labatt acquisition Schlitz should be required to sell both Labatt and General Brewing together. The district court denied defendant's motion because it believed that this issue could be better decided after the trial, which the court urged the parties to bring on promptly. (Tr. of Pre-Trial Hearing, April 21, 1965, pp. 53–55).

Depositions. In October 1964, eight months after filing its complaint, the government completed its discovery and filed a motion to set the case for trial under local Rule 2 [8] which provides that, unless the court grants additional time, all discovery must be completed within 10 days (Plaintiff's Memorandum to Set the Case, October 19, 1964). In October and December 1964, Schlitz asked for and was granted additional time for discovery. In January 1965, nearly a year after the filing of the complaint, Schlitz commenced

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here, we will be willing that this Court's order will be understood to mean that we exercise no rights incident to it, no dominion, don't vote it as stockholders and that the exact status quo at that time be maintained whether the hearing on the injunction is within the 10 days or a longer time." (Tr. of Pretrial proceedings, Feb. 20, 1964, pp. 30–31.)

[8] Rule 2, Rules of District Court of the Northern District of California.

discovery proceedings. On February 15, 1965 the government gave Schlitz a list of persons from whom its witnesses would be drawn, but Schlitz made no move to depose any of them. In February and again in March, Schlitz asked for and was given additional discovery time. On April 21, 1965, Schlitz agreed that no more discovery time was necessary (Tr. of pre-trial hearing, April 21, 1965, pp. 6–7), and on May 24 it stated that it would have "no problem" going to trial the third week in August. (Tr. of Pre-trial conference, May 24, 1965, pp. 170–171.) Seven weeks before trial, on June 22, 1965, recognizing that a special dispensation from the trial judge was necessary,[9] Schlitz requested him to grant additional time to depose five more witnesses. After a full hearing on this motion, the trial judge, after hearing that Schlitz had already deposed two of these five witnesses in a parallel private antitrust action, held that, since Schlitz had neither shown a particular need for the depositions nor explained why it had not taken them earlier and since further delay in the trial date might injure General Brewing, no further depositions would be allowed without the consent of all parties. (See Tr. of Pre-trial conference, June 22, 1965 pp. 264–272.)

Schlitz's Motion to Reopen the Trial. On February 18, 1966, five months after the close of trial and two

[9] Counsel for Schlitz stated:

"But as we understand the situation, it may be that we are in the state of pre-trial where we are no longer allowed to take depositions, and it was with that in mind that I approached counsel and they said no, they would not agree to it." (Tr. of Pre-trial conference, June 22, 1965, p. 265.)

months after the filing of all post-trial briefs, Schlitz moved that the trial be reopened to take new evidence concerning General Brewing's proposed sale of one of its four breweries to the Miller Brewing Company. Schlitz argued that this sale showed that General Brewing was a "failing firm" and not a significant potential competitor capable of expanding into new sections of the country (Post-Trial Hearing, February 18, 1966, pp. 1–28). At a full hearing on Schlitz's motion, affidavits were presented showing that General Brewing proposed to sell only a portion of its excess production capacity and that such a sale was a prudent business step reducing General's excessive overhead expenses while providing it with capital to retire debt or improve its efficiency (Post-Trial Hearing, March 10, 1966, pp. 8–50). The affidavits also indicated that General Brewing retained sufficient excess capacity for it to expand. (J.S. 3a–4a; Tr. of hearing of March 10, 1966, pp. 32–36; affidavit of Jess Nicks, March 9, 1966.) The trial court concluded that Schlitz's theories were unsupported by any evidence, that they conflicted with the evidence offered by affidavit and that Schlitz had not shown any reason to believe that the affidavits might be contradicted at trial,[10] and denied Schlitz's motion.

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[10] The trial judge stated to Schlitz's attorney:

"If the Court was convinced that anything before it, on the basis of your motion, might have any real impact—might have—upon any of the fourteen issues upon which this matter was tried, the Court would give consideration to your motion. * * * But, you haven't suggested one thing, except the vaguest sort of conjecture, that is contrary to what is unqualified and happens to be before the Court now." (Tr. of hearing of March 10, 1966, pp. 22–23.)

The Decision. The district court held that Schlitz's acquisition of Burgermeister and its acquisition of Labatt each violated Section 7 of the Clayton Act. The court found that beer was the relevant line of commerce (Fdg. 16, J.S. 8a), and that the relevant geographic markets in which to consider the competitive effects of each of the acquisitions consisted of (1) the United States as a whole (Fdg. 17, J.S. 8a), (2) eight western States (Fdg. 27, J.S. 10a),[11] (3) the State of California (Fdg. 33, J.S. 11a), and (4) the State of Hawaii (Fdg. 34, J.S. 11a).

Both in California and in the eight western States the Burgermeister acquisition had significantly increased concentration in the brewing industry—an industry showing a pronounced trend towards concentration (Fdg. 44, J.S. 13a; Fdg. 122, J.S. 26a). In addition, since Schlitz, had it not acquired Burgermeister, would have introduced its own brand—Old Milwaukee—into the West Coast market, the acquisition eliminated significant potential competition (Fdg. 120, J.S. 26a). Finally, the acquisition allowed Schlitz to hinder new entry into the beer industry by tying up a large number of beer wholesalers and making it difficult for those wholesalers to handle beers of other brewers (Fdgs. 107–112, J.S. 23a–25a).

The district court based its conclusion that the Labatt acquisition was illegal primarily on the ground

[11] California, Oregon, Washington, Idaho, Montana, Nevada, Utah a[redacted]rizona.

that the acquisition significantly increased concentration in the United States, in the eight western States, in California, and in Hawaii (Fdg. 67, J.S. 17a). The court also held that the acquisition threatened to suppress the substantial potential competition offered by Labatt and by General Brewing in the United States (Fdgs. 64–66, J.S. 16a–17a).

ARGUMENT

Appellant does not dispute the district court's holding that Schlitz's acquisition of the Labatt-General Brewing complex violates Section 7 of the Clayton Act. Indeed, since the acquisition would increase Schlitz's share of the Hawaiian beer market from 9.7 to 50.9 percent,[12] its share of the California market from 13.1 to 26.8 percent, and its share of the eight-State western market from 10 to 23.3 percent (see PX 26–30, 32–34; Fdgs. 53, 55–57, J.S. 14a–15a), its illegality is plain. See *United States* v. *Pabst Brewing Co.*, 384 U.S. 546; *United States* v. *Von's Grocery Co.*, 384 U.S. 270.

It is also clear, we submit, that Schlitz's acquisition of Burgermeister is illegal. The acquisition united California's third largest brewery, accounting for 10.7 percent of all sales, with the eleventh largest, accounting for 3.9 percent of all sales (Fdgs. 101–104, J.S. 22a–23a), and removed Schlitz as a potential competitor that was prepared to introduce a second brand in the California market (Fdgs. 113–120, J.S. 25a–26a). See *United States* v. *Penn-Olin Chemical*

[12] The actual market shares for Schlitz were 20.5 percent before and 61.7 percent after the acquisition of General. See *supra*, n 5.

Co., 378 U.S. 158. The "failing company" doctrine of *International Shoe Co.* v. *Federal Trade Commission*, 280 U.S. 291, cannot justify this merger, for Burgermeister was in no sense "failing"[13] but was a healthy competitor[14] (see Fdgs. 90–98, J.S. 21a–22a; J.S. 39a).

Appellant's principal contentions are three, none of which, we submit, warrants plenary review: first, that the trial judge abused his discretion in requiring Schlitz to divest the Labatt shares it had acquired instead of allowing Schlitz to retain Labatt and sell only General Brewing; second, that the government may not attack Schlitz's acquisition of Burgermeister without showing "some justification or change in circumstances" (J.S. 22) because the government "cleared" the transaction in 1961; third, that the district court made various procedural errors that deprived appellant of a fair trial.

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[13] Even had Burgermeister been failing, however, it is doubtful whether the *International Shoe* doctrine would apply, for the Miller Brewing Company—whose share of the California market was insignificant—also offered to buy Burgermeister. We believe that a failing firm may merge with a principal competitor only if there is no other prospective purchaser. See *United States* v. *Diebold, Inc.*, 369 U.S. 654; *International Shoe Co.* v. *Federal Trade Commission*, 280 U.S. 291, 302.

[14] Appellants argue that Burgermeister's market share should be discounted in view of the fact that Burgermeister was a "declining" company. We deny that any such discounting would be proper, for Burgermeister remained a strong, healthy company and any decline was insignificant (Fdg. 87–98, J.S. 20a–22a). But, even were Burgermeister's market share to be discounted by as much as 50 percent, the acquisition would still be illegal. *United States* v. *Von's Grocery Co.*, 384 U.S. 270; *United States* v. *Pabst Brewing Co.*, 384 U.S. 546.

1. A trial judge is "invested with large discretion" in fashioning relief in an antitrust case (*International Salt Co.* v. *United States,* 332 U.S. 392, 400–401; see *United States* v. *Crescent Amusement Co.,* 323 U.S. 173, 185; *United States* v. *National Lead Co.,* 332 U.S. 319, 334), and "it is well settled that once the Government has successfully borne the considerable burden of establishing a violation of law, all doubts as to the remedy are to be resolved in its favor" (*United States* v. *duPont & Co.,* 366 U.S. 316, 334). The relief decreed in the present case, adopted by the trial judge at the suggestion of the government, represents a sound exercise of judicial discretion. The district court has simply ordered Schlitz to divest the Labatt stock it acquired, and the "very words of § 7 suggest that an undoing of the acquisition is a natural remedy." *United States* v. *duPont & Co., supra,* at 329.

Such relief was necessary in this case to eliminate the anticompetitive effects of the acquisition of Labatt stock. Schlitz has already tried to prevent the introduction of Labatt beer into the United States (Fdg. 65, J.S. 16a–17a). If Schlitz were allowed to retain Labatt—a large and prosperous Canadian brewer—it would eliminate the substantial potential competition created by Labatt's planned expansion into the American market (Fdgs. 61–67, J.S. 16a–17a). Moreover, Labatt intended to expand General Brewing eastward to become a national brewer. A decree which separated General Brewing from Labatt might make it less likely that General Brewing

would enter eastern markets and it might deprive General Brewing of the financial, managerial and technical support necessary to accomplish this expansion (Fdgs. 63–64, J.S. 16a; J.S. 38a–39a).[15]

Appellants have no basis for implying that the relief ordered by the district court is inequitable. It should not be difficult to sell a block of securities in a profitable company (see Pre-Trial Hearing, May 12, 1965, pp. 8–9). Moreover, while Schlitz claims that it bought Labatt only in order to enter the Canadian market, it failed to convince the trial judge of this fact. He thought that Schlitz may well have sought control of Labatt with an eye towards obtaining control of General Brewing (J.S. 38a). In addition, it is probable effect on competition, not motive, that is critical in a Section 7 case. Finally, though Schlitz claims that the acquisition of Labatt is the only feasible way to enter the Canadian market, undisputed testimony introduced at trial revealed five different ways that Schlitz might enter this market (see Tr. of Trial, pp. 1993–1994; Plaintiff's Post-Trial Brief, pp. 88–90). In no sense, then, can the relief granted by the trial judge be viewed as an abuse of his discretion.[16]

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[15] While other brewers might acquire General Brewing and provide such support, the sale of General Brewing to one of the larger American brewers might well create new antitrust problems. Cf. *United States* v. *duPont & Co.*, *supra*, at 333; J.S. 39a.

[16] Two directors of General Brewing and a minority shareholder have filed an *amicus* brief asking this Court to note probable jurisdiction so that they may present their views about proper relief. In particular they wish to argue that Schlitz should be permitted to keep Labatt and to divest only General

2. Appellant points out that when Schlitz acquired Burgermeister the Department of Justice orally told counsel that the Department was not prepared to take any action *at that time* to block the acquisition, and that the Department took no action for two years. Appellants claim that, for this reason, the government may not now attack the acquisition unless "some justification or change in circumstances * * * appear[s] from the records" (J.S. 22).

The record, however, is replete with evidence of changed circumstances. The subsequent acquisition of Labatt showed that Schlitz was pursuing a plan

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Brewing because ownership by Labatt hurts General Brewing. The request of the *amici* should be denied. The issue that they raise was fully argued in the district court, with Schlitz forcefully maintaining the position that the *amici* take here. The trial judge reasonably concluded that the "evidence clearly demonstrates that Labatt had the desire, the intention and the resourcefulness to * * * make General Brewing a stronger competitor in * * * [American] markets" (J.S. 37a). Moreover, the trial judge ordered Schlitz to divest Labatt as well as General Brewing primarily because he believed—and the *amici* seem to agree (*amicus* brief p. 8)—that control of General Brewing made Labatt a stronger potential competitor in American markets (Fdgs. 61–66; J.S. 16a–17a), and, as this Court has held, economic hardship to minority shareholders may be considered only when a judge is choosing between alternative schemes of relief that are equally effective (*United States* v. *du Pont & Co.*, 366 U.S. 316, 327). Finally, the *amici* made no attempt to present their views to the district court, as they might easily have done. The fact that the court heard testimony from General Brewing, a party to the case, surely does not require it on its own initiative to seek the views of all minority shareholders or to appoint special counsel to represent them.

of growth through merger. Moreover, there were further increases in the concentration of the brewing industry (Fdgs. 43–48, J.S. 13a–14a; App. A, *infra*, pp. 23–27). Finally, additional evidence—revealing Schlitz's intent to introduce its own brand into California in the event it could not buy Burgermeister—was discovered in the form of a document not made available by Schlitz to the government in 1961 (PX 2).[17]

In any event, the government never promised not to proceed against this acquisition and is therefore not barred even if circumstances have not changed. Since the Department of Justice has no authority to suspend the antitrust laws or to immunize transactions by issuing advisory opinions (cf. *Utah Power & Light Co.* v. *United States*, 243 U.S. 389, 409; *United States* v. *San Francisco*, 310 U.S. 16, 32), even formal business review letters state only the government's *present* intention not to bring an antitrust suit. Thus such a letter would not have prevented the government from later attacking the Burgermeister transaction. *United States* v. *Grinnell*, 236 F. Supp. 244 (D. R.I.), affirmed, 384 U.S. 563. The government gives an oral indication of its present enforcement intentions when it does not wish to give even the *appearance* of approving a transaction. Schlitz was well aware that the government's oral statement constituted no "clearance" of any sort (Fdgs. 83–86, J.S. 19a–20a). There thus is no basis

[17] In 1961 Schlitz had been asked to provide the Department with all information relevant to the Burgermeister acquisition.

whatever for estopping the government or requiring that it prove changed circumstances.[18]

3. Schlitz argues that certain procedural rulings by the trial court deprived it of a fair trial. An examination of the record, however, shows that the trial court's rulings were entirely correct.

a. The trial court's refusal to modify the temporary restraining order was a sound exercise of judicial discretion. The questions in issue in a modification hearing would have been identical to several of those that were to be presented at the trial, which was to be held in a few weeks' time.[19] There was no pressing need for immediate modification. The trial judge rightly postponed deciding these questions and Schlitz was in no way prejudiced by this decision.

b. The trial court's refusal to allow Schlitz additional time under local Rule 2 in order to depose certain witnesses was also proper. Schlitz had more than a year and a half to prepare for trial; six months

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[18] Nor is the fact that the government was aware of the Burgermeister transaction yet did not act for two years a basis for estoppel. A requirement that suits must be brought immediately or soon after the government first hears of a possible violation would impose an impossible burden upon antitrust enforcement. See *United States* v. *New Orleans Chapter, Associated General Contractors*, 382 U.S. 17; *United States* v. *Socony-Vacuum Oil Co.*, 310 U.S. 150.

[19] The basic question involved would have been whether Schlitz should be allowed to sell General Brewing separately rather than required to dispose of all the illegally acquired Labatt shares. This issue is precisely what the trial judge had to decide when fashioning appropriate relief. It was obviously easier to decide the question after determining what effect Schlitz's acquisition of Labatt stock might have upon competition.

before trial it obtained a list from which the government's witnesses would be drawn six months before trial; and the trial date was postponed numerous times at Schlitz's request. Yet Schlitz made no effort to take depositions until just before trial was due to begin.[20] Under the district court's rules, Schlitz had forfeited its right to take additional depositions. It was only after the trial court had held a full hearing and carefully elicited what Schlitz hoped to discover by deposition that it determined that further postponement of the trial date to allow the depositions to be taken would be unjustified.[21]

c. The trial court held an extensive hearing on Schlitz's motion to reopen the trial to take evidence about General Brewing's sale of one of its plants. After carefully examining affidavits and memoranda concerning the transaction, and fully eliciting from Schlitz what it hoped to prove, the court concluded that it was highly unlikely that Schlitz would be able to produce evidence with any significant bearing upon any issue in the case, that further delay might prejudice the business interests of Labatt and General Brewing (Post-Trial Hearing, March 10, 1966, p. 8), and that reopening the trial, therefore, could not be justified. The record of the hearing makes clear, we submit, that the trial court's ruling was justified.

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[20] Inaction during extended time for depositions and lateness of application for depositions were held sufficient reasons to refuse to permit deposition in *Tennessee Power Co.* v. *Tennessee Valley Authority*, 306 U.S. 118, 145.

[21] It also became apparent at the hearing that Schlitz, in a companion private antitrust suit, had already taken the depositions of two of the five witnesses that it was asking to depose.

d. Schlitz suggests that the trial court's Findings of Fact and Conclusions of Law are defective. The trial judge asked each side to prepare findings to be submitted with post-trial briefs explaining why they should be adopted. Only after careful sifting did he adopt findings which "incorporate[d] many substantial additions, deletions and revisions as well as numerous other changes" (J.S. 3a). And he carefully explained why the findings of the losing party were rejected. This case is thus unlike *United States* v. *El Paso Natural Gas Co.*, 376 U.S. 651, in which this Court commented disparagingly upon the district court's action in first reaching a decision and then requesting the prevailing party to draw up findings which it mechanically adopted. Even in *El Paso*, moreover, the Court declined to deem the judge's conduct in this respect a ground for reversal.

CONCLUSION

The judgment of the district court should be affirmed.

Respectfully submitted.

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SEPTEMBER 1966.

APPENDIX A

Brewers Who Have Been in the Top 25 at Some Time After 1939 and Head Office Location

1. Acme Brewing Co., San Francisco, Calif.
2. Anheuser-Busch, Inc., St. Louis, Mo.
3. Associated Brewing Co. (Pfeiffer), Detroit, Mich.
4. (P) Ballantine & Sons, Newark, N.J.
5. Burger Brewing Co., Cincinnati, Ohio
6. Blatz Brewing Co., Milwaukee, Wisc.
7. Burgermeister Brewing Corp. (San Francisco), San Francisco, Calif.
8. Carling Brewing Co. (Brewing Corp. of America), Cleveland, Ohio
9. (Adolph) Coors Co., Golden, Colo.
10. Drewrys Limited U.S.A., Inc., South Bend, Ind.
11. Duquesne Brewing Co., Pittsburgh, Pa.
12. Falstaff Brewing Co., St. Louis, Mo.
13. Feigenspan Brewing Co., Newark, N.J.
14. Fort Pitt Brewing Co., Sharpsburg, Pa.
15. General Brewing Corp. (Lucky Lager), San Francisco, Calif.
16. Genesee Brewing Co., Rochester, N.Y.
17. Goebel Brewing Co., Detroit, Mich.
18. Griesedieck Bros., St. Louis, Mo.
19. Griesedieck-Western Brewing Co., Belleville, Ill.
20. Gunther Brewing Co., Baltimore, Md.
21. Theo. Hamm Brewing Co., St. Paul, Minn.
22. Hudepohl Brewing Co., Cincinnati, Ohio.
23. International Breweries, Inc., Detroit, Mich.
24. Jackson Brewing Co., New Orleans, La.
25. John F. Trommer, Inc., Brooklyn, N.Y.

26. (G.) Krueger Brewing Co., Newark, N.J.
27. Liebmann Breweries, Inc., Brooklyn, N.Y.
28. Lone Star Brewing Co., San Antonio, Texas
29. Los Angeles Brewing Co., Los Angeles, Calif.
30. Miller Brewing Co., Milwaukee, Wisc.
31. Minneapolis Brewing Co., Minneapolis, Minn.
32. Narragansett Brewing Co., Cranston, R.I.
33. National Brewing Co., Baltimore, Md.
34. Olympia Brewing Company, Olympia, Wash.
35. Pabst Brewing Company, Milwaukee, Wisc.
36. Pearl Brewing Co., San Antonio, Texas
37. Peter Fox Brewing Co., Chicago, Ill.
38. Piel Bros., Brooklyn, N.Y.
39. Pittsburgh Brewing Co., Pittsburgh, Pa.
40. Red Top Brewing Co., Cincinnati, Ohio
41. Jacob Ruppert, New York, N.Y.
42. (The F. & M.) Schaefer Brewing Co., Brooklyn, N.Y.
43. (Jos.) Schlitz Brewing Co., Milwaukee, Wisc.
44. (C.) Schmidt & Sons, Inc., Philadelphia, Pa.
45. (Jacob) Schmidt Brewing Co., St. Paul, Minn.
46. Stegmaier Brewing Co., Wilkes-Barre, Pa.
47. Stroh Brewing Co., Detroit, Mich.
48. Terre Haute Brewing Co., Terre Haute, Ind.

Leading brewers showing rank (R) and volume in thousands of barrels (vol.) (last "000" omitted)

Brewer	1939		1940		1941		1942		1943	
	R.	Vol.	R.	Vol.	R.	Vol.	R.	Vol.	R.	Vol.
Acme	19	500	16	533	12	659	10	848	9	1,008
Anheuser-Busch	1	2,306	1	2,468	1	3,090	1	3,492	1	3,565
Associated (Pfeiffer)									29	517
Ballentine	6	1,289	5	1,322	5	1,626	4	1,887	3	2,630
Burger			36	323	34	375	29	460	20	680
Blatz	10	679	13	568	18	578	13	701	11	920
Buggermeister									37	235
Carling (Br. Co. of Am.)	22	403	29	354	21	457	19	615	15	780
Coors										
Drewrys									33	330
Duquesne	9	680	9	690	8	950	9	975	10	980
Falstaff	13	622	10	685	7	1,029	7	1,229	7	1,226
Feigenspan	11	659	14	566	16	597	15	660	25	611
Fort Pitt	32	225	40	295	29	415	22	553		
General (Lucky Lager)									27	540
Genesee									34	315
Goebel									28	541
Griesedieck Bros									31	431
Griesedieck-Western									36	280
Hamm's	8	780	8	694	9	800	11	710	12	800
Hudepohl	24	385	28	365	19	499	21	560	18	690
Jackson									30	475
John Trommer	14	574	15	556	17	592	20	576	24	617
Krueger	23	386	22	415	20	493	23	552	22	631
Liebmann	12	633	11	670	10	789	8	979	8	1,160
Los Angeles										
Miller	17	543	18	522	15	617	12	707	16	720
Minneapolis										
National									35	300
Olympia										
Pabst	3	1,650	2	1,730	2	2,080	3	2,500	4	2,629
Peter Fox							25	541	13	741
Piel									32	416
Pittsburgh	20	484	19	520	21	450	16	650	17	700
Red Top	31	325	26	375	21	450	16	650	19	660
Ruppert	4	1,325	6	1,228	6	1,345	6	1,426	6	1,615
Schaefer	5	1,305	4	1,390	4	1,678	5	1,707	5	1,801
Schlitz	2	1,651	3	1,570	3	1,993	2	2,730	2	3,173
C. Schmidt	15	573	12	568	13	646	14	694	14	735
J. Schmidt	7	810	7	721	11	720	17	625	21	633
Stegmaier	21	433	21	433	21	450	24	510	23	625
Stroh	18	536	20	497	14	620	18	621	26	552
Terre Haute										

Leading brewers showing rank (R) and volume in thousands of barrels (vol.) (last "000" omitted)

Brewer	1944		1945		1946		1947		1948	
	R.	Vol.	R.	Vol.	R.	Vol.	R.	Vol.	R.	Vol.
Acme	7	1,310	7	1,360	8	1,300	11	1,159	20	863
Anheuser-Busch	1	3,814	1	3,760	2	3,156	4	3,609	4	4,050
Associated (Pfeiffer)	24	537	25	545	25	512	21	780	14	1,094
Ballantine	3	2,793	4	2,810	3	2,662	3	3,726	2	4,138
Burger										
Blatz	10	1,062	10	1,093	9	1,210	9	1,491	9	1,389
Burgermeister	34	264	35	269	36	243	37	363		462
Carling (Br. Co. of Am.)	12	950	11	1,043	17	715	26	650	33	464
Coors			34	316	35	284	36	395	32	470
Drewrys	33	312	33	335	34	331	31	533	31	494
Duquesne	11	1,016	12	1,034	11	979	10	1,167	12	1,110
Falstaff	9	1,255	8	1,338	10	1,149	8	1,651	5	2,304
Fiegenspan										
Fort Pitt	16	747	18	714	16	740	16	979	10	1,202
General (Lucky Lager)	22	568	22	599	23	559	25	658	25	694
Genesee	31	330	32	350	29	435	30	540	28	622
Goebel	21	897	21	939	20	635	18	894	16	1,022
Griesedieck Bros	28	426	28	461	30	413	26	618	30	534
Griesedieck-Western	32	325	32	350	32	377	28	610	15	1,057
Hamm's	13	800	15	799	12	805	13	1,000	11	1,200
Hudepohl	20	(1)	(1)	(1)			32	500	29	573
Jackson	29	425	29	453	31	390	33	479	34	460
John Trommer	17	700	14	820	15	765	12	1,020	18	990
Krueger	19	680	13	850	14	791	15	980	22	835
Liebmann	8	1,275	9	1,325	7	1,300	6	2,100	7	2,110
Los Angeles	23	541	24	553	26	496	27	615	24	751
Miller	15	741	17	729	19	644	20	806	19	911
Minneapolis	25	535	23	590	22	580	23	705	26	693
National	30	344	31	355	34	331	38	300	36	430
Olympia					33	341	35	409	37	365
Pabst	4	2,200	3	2,833	1	3,320	2	3,732	3	4,114
Peter Fox	(2)	(2)	1	304	33	358	34	416	35	436
Piel	27	479	27	522	28	468	29	560	27	650
Pittsburgh					18	650	24	692		
Red Top	18	690	19	710	13	800	14	985	21	855
Ruppert	6	1,785	6	1,885	6	1,785	7	1,902	8	1,638
Schaefer	5	1,931	5	2,250	5	2,150	5	2,400	6	2,250
Schlitz	2	3,246	2	3,062	4	2,649	1	3,991	1	4,280
C. Schmidt	14	791	16	797	20	588	17	971	13	1,099
J. Schmidt										
Stegmaier										
Stroh	20	632	20	649	24	543	19	877	23	822
Terre Haute	26	493	26	524	27	472	22	743	17	1,008

[1] Lunther.
[2] Pearls

Leading brewers showing rank (R.) and volume in thousands of barrels (vol.) (last "000" omitted)

Brewer	1949		1950		1951		1952		1953	
	R.	Vol.	R.	Vol.	R.	Vol.	R.	Vol.	R.	Vol.
Anheuser-Busch	2	4,826	2	4,889	2	5,479	2	6,094	1	6,711
Associated (Pfeiffer)	9	1,438	10	1,618	10	1,555	11	1,804	14	1,442
Ballantine	3	4,514	3	4,375	3	3,990	4	4,088	4	3,882
Blatz	8	1,598	9	1,746	9	1,799	10	1,662	20	*1,082
Burgermeister	36	496	29	623	19	838	19	961	21	1,018
Carling	39	362	36	502	29	689	20	893	19	1,096
Coors	30	605	28	667	31	680	26	757	26	812
Drewrys	31	600	25	730	23	772	16	1,222	15	1,420
Duquesne	13	1,176	15	1,081	17	1,094	30	*631	23	923
Falstaff	5	2,474	7	2,287	8	2,295	8	2,277	6	2,911
Fort Pitt	12	1,177	19	963	22	805				
General (Lucky)	21	857	14	1,096	14	1,242	12	1,475	10	1,740
Genesee	26	710	27	677	26	730	23	790	25	815
Goebel	16	1,142	12	1,258	13	1,408	13	1,445	12	1,580
Griesedieck Bros.	27	694	20	810	20	817	21	825		
Griesedieck-Western	10	1,436	11	1,442	12	1,418	14	1,424	13	1,484
Gunther	28	671	31	601	25	745				
Hamm's	18	1,033	17	1,053	15	1,150	15	1,337	11	1,686
International										
Jackson	33	586	26	703	28	697	25	767	22	934
John Trommer	19	988								
Krueger	20	866	24	750						
Liebmann	7	1,875	5	2,662	5	2,800	6	2,856	5	3,085
Lone Star					34	449	31	501	30	577
Los Angeles (Pabst)	22	794								
Miller	11	1,330	8	2,105	6	2,612	5	3,043	8	*2,138
Minneapolis	25	724								
Narragansett	29	610	30	609			28	681	27	804
National	34	519	33	551	27	705	24	775	24	840
Olympia	37	475	32	595	30	665	27	725	29	764
Pabst	4	4,048	4	3,419	4	3,950	3	4,047	3	*4,250
Pearl	38	394	34	530	33	607	29	678	28	770
Piel Bros.	35	510	23	767	18	1,090	18	1,200	16	1,375
Pittsburgh	24	736	21	800	21	812				
Red Top	23	785	22	769	24	765				
Jacob Ruppert	17	1,079	13	1,253	11	1,517	9	1,800	9	2,005
Schaefer	6	1,927	6	2,652	7	2,600	7	2,485	7	2,641
Schlitz	1	4,679	1	5,097	1	5,716	1	6,347	2	*5,255
C. Schmidt	15	1,148	16	1,068	16	1,116	17	1,213	17	1,374
Stroh	32	596	35	514	32	636	22	822	18	1,135
Terre Haute	14	1,150	18	971						

*Strike.

Leading brewers showing rank (R) and volume in thousands of barrels (vol.) (last "000" omitted)

Brewer	1954		1955		1956		1957		1958	
	R.	Vol.	R.	Vol.	R.	Vol.	R.	Vol.	R.	Vol.
Anheuser-Busch	1	5,820	2	5,617	2	5,864	1	6,116	1	*6,982
Associated (Pfeiffer)	18	1,060	18	1,208	22	1,031	25	911	26	845
Ballantine	3	3,713	3	3,953	3	3,967	4	3,982	5	4,036
Blatz	21	975	24	928	24	949	18	1,247	13	1,700
Burgermeister	19	1,036	20	1,070	21	1,033	23	974	24	972
Carling	17	1,340	9	2,655	7	2,997	6	3,151	6	3,531
Coors	22	922	21	1,045	18	1,090	19	1,147	17	1,410
Drewrys	15	1,372	15	1,425	15	1,432	16	1,369	15	1,527
Duquesne	23	904	23	988	20	1,046	22	1,062	21	1,032
Falstaff	6	3,290	4	3,653	4	3,870	3	4,292	3	*4,502
Fort Pitt										
General (Lucky)	10	1,775	13	1,324	12	1,960	12	2,024	10	*2,265
Genesee	28	810	28	788	27	800	27	804	29	798
Goebel	16	1,346	19	1,116						
Griesedieck Bros										
Griesedieck-Western										
Gunther										
Hamm's	8	2,249	7	3,072	5	3,325	5	3,376	7	*3,304
International									27	826
Jackson	20	1,006	22	1,008	19	1,051	20	1,107	22	1,030
John Trommer										
Krueger										
Liebmann	5	3,410	6	3,162	8	2,882	7	2,966	9	*2,847
Lone Star	29	667	29	725	28	749	28	739	28	785
Los Angeles (Pabst)										
Miller	9	2,096	10	2,191	11	2,246	11	2,221	11	2,210
Minneapolis										
Narragansett	25	838	25	897	26	851	26	906	25	888
National	24	845	17	1,286	17	1,115	17	1,301	19	*1,294
Olympia	27	815	26	865	23	1,016	21	1,104	20	1,249
Pabst	4	3,500	5	3,278	6	3,115	9	2,700	4	*4,250
Pearl	26	836	27	863	25	905	24	943	23	981
Pfeil Bros	14	1,395	16	1,365	16	1,350	15	1,435	16	*1,420
Pittsburgh										
Red Top										
Jacob Ruppert	11	1,769	14	1,638	14	1,539	14	1,490	18	*1,406
Schaefer	7	2,690	8	2,655	9	2,720	8	2,940	8	*2,887
Schlitz	2	5,406	1	5,780	1	5,941	2	6,024	2	*5,893
C. Schmidt	12	1,516	12	1,917	13	1,850	13	1,757	14	1,661
Stroh	13	1,450	11	2,153	10	2,709	10	2,584	12	1,925
Terre Haute										

*Strike.

Leading brewers showing rank (R) and volume in thousands of barrels (vol.) (last "000" omitted)

Brewer	1959		1960		1961		1962		1963	
	R.	Vol.	R.	Vol.	R.	Vol.	R.	Vol.	R.	Vol.
Anheuser-Busch	1	8,065	1	8,477	1	8,508	1	9,035	1	9,397
Associated	26	900	24	918	24	932	24	948	21	1,151
Ballantine	6	4,325	6	4,409	6	4,510	6	4,538	6	4,478
Burgermeister	21	974	----	[1] 893	----	----	----	----	----	----
Carling	5	4,418	4	4,822	5	5,047	4	5,359	4	5,681
Coors	14	1,649	13	1,907	11	2,303	11	2,773	9	3,054
Drewrys	15	1,629	15	1,612	15	1,651	14	1,948	12	2,602
Duquesne	20	1,008	20	1,046	22	1,007	22	1,003	24	1,010
Falstaff	3	4,748	3	4,911	4	5,128	5	5,310	5	5,548
General	11	2,178	11	2,168	12	2,237	12	2,160	14	1,982
Genesee	27	789	27	805	26	880	23	965	22	1,100
Hamm's	7	3,552	7	3,907	7	3,714	8	3,726	7	3,826
International	24	932	23	919	----	----	----	----	----	----
Jackson	23	961	22	950	23	964	21	1,032	23	1,018
Liebmann	9	2,929	9	2,950	9	2,987	9	2,992	10	3,018
Lone Star	26	802	25	895	25	903	25	895	25	900
Miller	10	2,359	10	2,377	10	2,707	10	2,805	11	2,830
Narragansett	25	905	26	894	21	1,094	20	1,161	20	1,226
National	19	1,342	18	1,355	18	1,375	18	1,381	18	1,401
Olympia	18	1,415	16	1,497	16	1,558	16	1,742	16	1,776
Pabst	4	4,500	5	4,738	3	5,217	3	5,844	3	6,672
Pearl	22	968	21	1,023	17	1,429	17	1,484	17	1,599
Piel	16	1,511	17	1,481	19	1,360	----	----	----	----
Jacob Ruppert	17	1,430	19	1,305	20	1,200	19	1,209	19	1,269
Schaefer	8	3,050	8	3,203	8	3,467	7	3,778	8	3,750
Schlitz	2	5,863	2	5,694	2	5,767	2	6,862	2	7,833
C. Schmidt	13	1,732	14	1,802	14	1,855	15	1,871	15	1,941
Stroh	12	2,111	12	2,075	13	2,029	13	2,037	13	2,045

[1] Annual Rept. 1960, pp. 4, 8.

Sales of 25 top brewers

Year	Thousands of barrels	Percent of national market	Year	Thousands of barrels	Percent of national market
1939			1952		60.2
1940			1953		61.3
1941		41.5	1954		62.1
1942		42.2	1955		64.9
1943		41.4	1956		67.5
1944		39.7	1957	58,418	69.25
1945		41.1	1958	59,537	70.52
1946		40.3	1959	64,610	73.8
1947		46.0	1960	[1] 66,441–67,873	75.61
1948		49.25	1961	[1] 68,949–69,081	77.4
1949		51.5	1962	72,881	79.9
1950		55.2	1963	[1] 77,107–93,894	82.2
1951		57.7			

[1] 100 percent.

APPENDIX B

Beer sales in various States (in barrels)

	California [1]			Idaho [2]			Montana [3]		
	1961	1962	1963	1961	1962	1963	1961	1962	1963
Anheuser-Busch, Inc.	526,241	577,282	1,033,218	8,993	9,667	9,279	33,975	33,209	31,855
Arizona Brewing Co.	28,687	29,042	29,185						
Blitz-Weinhard Co.	1,323	1,597	1,343	2,973	1,980	8,638			725
Burgermeister Brewing [4]	653,898			306			501		
Carling Brewing Co.	19,471	21,601	24,840	19,603	19,952	19,618	1,149	7,726	1,239
Adolph Coors Co.	717,511	982,924	1,193,795	44,674	47,516	56,698			
Falstaff Brewing Corp.	385,893	389,650	350,835						
General Brewing Corp.	1,416,973	1,333,185	1,169,151	69,188	67,959	64,391	52,814	57,225	54,823
Grace Bros. Brewing Co.	140,808	137,433	131,146						
Great Falls Brewing Co.				1,124	1,363	1,118	129,253	122,471	116,741
Hamm Brewing Co., Theo.	943,827	1,012,495	992,580	4,421	9,692	11,743	20,493	19,449	50,576
Maier Brewing Co.	457,525	463,825	556,983						
Miller Brewing Co.	231,067	234,855	227,821	2,321	3,063	2,709	5,805	6,093	9,645
Olympia Brewing Co.	771,658	847,570	837,440	77,672	83,047	86,132	16,213	31,126	44,608
Pabst Brewing Co.	642,218	648,863	661,670	3,227	3,011	1,533	1,883	1,316	791
Regal Pale Brewing Co. [5]	219,834	190,590							
Schlitz Brewing Co., Jos.	283,278	996,963	1,120,462	1,768	1,721	1,809	23,756	26,072	28,000
Sicks' Rainier Brewing	62,677	67,350	67,301	18,922	17,667	17,997	50,115	54,103	54,000
All Other Companies [6]	203,696	198,769	212,512	24,485	21,424	12,766	103,817	100,259	74,304
Total	7,716,565	8,134,104	8,620,302	279,768	288,062	294,431	439,774	459,049	467,967

	Nevada [1]			Oregon [1]			Utah [1]		
	1961	1962	1963	1961	1962	1963	1961	1962	1963
Anheuser-Busch	22,881	27,401	30,557	19,197	21,994	23,349	5,022	5,134	5,724
Arizona	3,677	3,068	3,033				6,390	5,050	4,433
Blitz				180,377	196,384	225,744			802
Burgermeister [6]				12,040					
Carling	508	435	890	150,403	137,329	135,849			
Coors	74,636	104,202	117,716				80,715	95,364	102,238
Falstaff	9,817	9,421	8,824						
General	41,382	41,170	39,847	93,104	91,975	87,838	94,692	94,647	100,708
Grace	1,173	1,625	1,927	213	422	291			
Hamm	28,122	32,661	39,863	35,787	37,036	42,259			
Maier	294	809	3,609	4,323	3,980	3,808			
Miller	8,861	10,087	10,496	13,236	15,603	16,108	4,649	4,856	4,238
Olympia	10,111	21,690	23,084	225,146	241,145	239,503	4,891	13,745	18,493
Pabst	472	256	123	2,685	2,840	2,297	4,244	4,055	2,497
Schlitz	19,232	28,552	33,657	41,520	20,492	28,728	6,005	5,322	7,777
Sicks'	115			94,598	45,378	50,932			
All other [6]				35,629	40,346	24,489	31,687	30,514	25,063
Total	230,281	281,377	313,716	821,248	854,933	891,194	239,324	258,697	271,973

See footnotes at end of table.

	Washington [1]			Arizona [1]			Wyoming		
	1961	1962	1963	1961	1962	1963	1961	1962	1963
Anheuser-Busch	27,331	32,834	32,650	67,358	81,771	88,534	20,442	21,488	21,633
Arizona				100,219	90,486	94,451			
Blitz	31,185	31,594	49,282						
Burgermeister	3,414								
Carling	178,663	156,771	449,137	1,050	2,589	7,317	1,559	2,095	2,113
Coors				281,822	310,614	312,266	63,082	70,900	67,530
Falstaff				62,801	72,391	74,130	3,311	1,846	3,271
General	149,898	158,610	147,023	78,283	81,142	74,601	4,410	3,692	2,998
Grace	664	667	644	473	351	349			
Great Falls	32						2,238	2,004	1,718
Hamm	52,292	51,722	56,968			17,559	23,275	20,701	21,631
Maier	10,572	10,032	9,849	7,881	7,045	9,068			
Miller	22,653	26,386	24,539	12,364	13,278	13,837	4,277	4,204	4,351
Olympia	377,323	405,543	420,893	7,183	9,170	9,950		3,132	2,224
Pabst	15,305	13,570	17,278	6,833	14,261	18,216	3,406	3,113	2,704
Schlitz	7,365	13,441	13,726	45,156	71,444	72,278	12,596	11,880	14,784
Sicks'	394,748	396,910	401,795				687	527	597
All other	117,699	132,080	114,214				7,186	7,621	9,872
Total	1,389,164	1,430,180	1,437,998	671,423	754,542	792,658	146,449	153,203	155,426

[1] Data from California Brewers Association (based on California State tax data) except Blitz-Weinhard figure which was obtained directly from that company.
[2] Data from State taxing authority.
[3] Data obtained directly from firms listed.
[4] Sales combined with Jos. Schlitz Brewing Co. after 1961.
[5] Purchased by Maier Brewing Company in 1963.
[6] Each with less than 100,000 barrels sales in each year in the West. Actual amount of such sales for Nevada and Arizona is unknown, but comparison of total obtained from individual firm figures with published total beer sales for each of these States indicates it is very small.

Market shares of major breweries in 8-State,[1] 9-State,[2] and 11-State[3] areas, 1963[4]

Company	8-State		9-State		11-State	
	Barrels	%	Barrels	%	Barrels	%
Anheuser-Busch	1,255,266	9.6	1,308,694	9.7	1,370,239	9.7
Arizona Brewing	131,102	1.0	146,681	1.1	146,913	1.0
Blitz-Weinhard Co	296,534	2.3	296,534	2.2	296,534	2.1
Carling Brewing Co	338,890	2.6	338,890	2.5	347,331	2.5
Coors Co, Adolph	1,782,715	13.6	1,965,888	14.5	2,267,305	16.1
Falstaff Brewing Corp	433,789	3.3	473,355	3.5	496,533	3.5
General Brewing Corp	1,738,082	13.3	1,749,150	12.9	1,767,262	12.5
Grace Bros. Brewing Co	134,357	1.0	134,357	1.0	134,357	1.0
Great Falls Brewing Co	117,859	.9	117,859	.9	119,577	.9
Hamm Brewing Co., Theo	1,211,548	9.3	1,244,117	9.2	1,285,843	9.1
Maier Brewing Co	593,407	4.5	593,407	4.4	593,407	4.2
Miller Brewing Co	309,393	2.4	320,730	2.4	341,788	2.4
Olympia Brewing Co	1,680,103	12.8	1,680,103	12.4	1,682,327	11.9
Pabst Brewing Co	704,405	5.4	704,405	5.2	710,238	5.0
Schlitz Brewing Co., Jos	1,306,642	10.0	1,357,451	10.0	1,403,812	10.0
Sicks' Rainier Brewing Co	592,799	4.5	592,799	4.4	593,396	4.2
All other companies	452,348	3.5	494,073	3.7	549,184	3.9
Total	13,090,239	100.0	13,518,493	100.0	14,106,046	100.0

[1] States of California, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Arizona.
[2] Eight States as above, plus New Mexico.
[3] Nine States as above, plus Colorado and Wyoming.
[4] Data for Colorado are for July–December 1963.

Sources: For 8-State area, Stipulation as to Certain Facts and Certain Evidence, filed June 9, 1965. For Colorado, New Mexico and Wyoming, Defendants' Exhibit DS-185, pages 4, 14 and 26.

APPENDIX C

III

MATTERS OF STIPULATION

Subject to the reservation of objections above stated matters of fact and of evidence are stipulated to as follows:

13. *Sales of Beer in California.* Attached hereto are statistical tables showing sales of beer in California by brewers and by years. These were prepared from statistical reports prepared by the California Brewers Association; compiled from figures supplied by California state agencies and providing statistical information in respect of sales of beer in California. In recent years, this data has been obtained from the California State Board of Equalization, which in turn obtains a monthly tax return regarding sales of beer in California from each brewer located in California and each out-of-state brewer who supplies beer in California.

Before 1960 data of this sort for individual brewers was available only for brewers having breweries in California. Sales of beer produced elsewhere were reported but not by individual brands so that before 1960 only the total is available for beer produced outside of California and sold in California and is shown as "Imports" (whether produced elsewhere in the United States or abroad). Thus figures for such brewers as Anheuser-Busch, Schlitz and Falstaff are not separately shown until they had breweries in California. The figures for sales for each such brewer before it had a brewery in California are included in

"imports" and the failure of the name of such brewer to appear in earlier years does not mean it had no sales in California in such earlier years. Brewers who never have had a brewery in California, as Coors, Olympia and Miller appear separately for the first time in 1960 and their sales in California before 1960 are included in "Imports".

The following changes have occurred in the designation of brewers listed in these reports due to changes in corporate name and/or acquisition by another corporation, and brewery locations are:

Brewery Locations

Except as next noticed the brewers referred to in the statistical tables had a brewery in California:

The Adolph Coors brewery is located at Golden, Colorado.

The Olympic brewery is located at Olympia, Washington.

The Miller brewery is located at Milwaukee, Wisconsin.

The Sicks' Rainier brewery is located at Seattle, Washington.

Carling Brewing Co. has several breweries, none located in California.

The Arizona Brewing Co., Inc., brewery is at Phoenix, Arizona and it was recently acquired by Carling Brewing Co.

Change of Name

The name of San Francisco Brewing Corporation (at one time known as Milwaukee) was changed to Burgermeister Brewing Corporation on February 15, 1957.

The name of General Brewing Corporation was changed to Lucky Lager Brewing Company and then again changed back to General Brewing Corporation.

Aztec Brewing Co. changed its name to Altes Brewing Co.

Regal Amber Brewing Company changed its name to Regal Pale Brewing Company.

Pacific Brewing & Malting Co. (San Jose) on reorganization was known as Wieland's Brewing Co.

Acquisitions and Other Changes

The Golden West brewery (Oakland) was acquired by Goebel Brewing Co. (Detroit, Michigan) in 1950.

The Los Angeles Brewing Co. was acquired by Pabst Brewing Co. (Milwaukee, Wisconsin) in 1948 and merged with Pabst in 1953.

The Wieland brewery in San Jose (formerly Pacific) was acquired by Falstaff Brewing Corp. (St. Louis, Missouri) on February 15, 1952.

The Rainier brewery (San Francisco) was acquired by Theo. Hamm Brewing Co. (St. Paul, Minnesota) in 1953 and the name and brand was acquired by the Sicks' company of Seattle, Washington which became known as Sicks' Rainier Brewing Co.

Acme Breweries (for a short time known originally as California Brewing Association, not to be confused with a somewhat similar name that appeared for a short time later) had two breweries, one in Los Angeles and one in San Francisco. (a) The Los Angeles brewery was acquired by Rheingold Brewing Co. (Leibmann Breweries, Inc. of Brooklyn, New York) in 1953 and was acquired from Rheingold by Theo. Hamm Brewing Co., in 1957. The San Francisco Acme plant was also acquired in 1953 by Rheingold, was disposed of by it in 1954 to local interests who operated it as California Brewing Co. until August 1958 when it ceased operation as a brewery.

The assets, except cash, of Burgermeister Brewing Corp. were acquired by Jos. Schlitz Brewing Company as of December 31, 1961.

The Regal Pale brewery in San Francisco was acquired by Maier Brewing Co. in 1963.

	1933			1934		
	Calif. sales barrels	Rank	Percentage of share of market	Calif. sales barrels	Rank	Percentage of share of market
Acme	165,481	1	18.69	226,665	1	12.40
Rainier	158,943	2	17.95	214,010	2	11.71
Los Angeles Brew	135,166	3	15.27	157,981	4	8.65
Golden West	105,825	4	11.95	116,239	6	6.36
S.F. Brew	73,444	5	8.29	91,698	7	5.02
Aztec	44,718	6	5.05	176,742	3	9.67
Maier	41,586	7	4.70	74,517	9	4.08
Balboa	32,328	8	3.65	120,833	5	6.61
El Dorado	29,238	9	3.30	26,619	19	1.46
Fresno	16,777	10	1.89	31,288	16	1.71
Grace	15,420	11	1.74	41,721	13	2.28
Regal Amber	14,745	12	1.67	88,749	8	4.86
El Rey	13,836	13	1.56	19,894	23	1.09
Humboldt	11,963	14	1.35	71,627	10	3.92
Globe	9,723	15	1.10	39,067	14	2.14
Vernon	8,961	16	1.01	35,716	15	1.95
Ambassador	2,922	17	.33	26,171	20	1.43
Anchor	1,641	18	.19	3,370	27	.18
Pacific	818	19	.09	61,153	11	3.35
St. Claire	737	20	.08	29,698	18	1.63
?	493	21	.06	----	----	----
Capital	350	22	.04	----	----	----
Arrowhead	328	23	.04	----	----	----
General	----	----	----	47,579	12	2.60
Buffalo	----	----	----	32,494	17	1.78
Eckert	----	----	----	20,246	21	1.11
?	----	----	----	20,011	22	1.10
West Coast	----	----	----	14,426	24	.79
Salinas	----	----	----	12,811	25	.70
Monterey	----	----	----	8,465	26	.46
Yosemite	----	----	----	7,671	27	.42
North Star	----	----	----	2,565	29	.14
Bailey	----	----	----	2,489	30	.14
Modesto	----	----	----	1,934	31	.11
?	----	----	----	1,629	32	.09
Lynwood	----	----	----	744	33	.04
				107	34	.01
	885,443	----	----	1,826,929	----	----

No export sales figures for 1933 and 1934.

	1935			1936		
	Calif. sales barrels	Rank	Percentage of share of market	Calif. sales barrels	Rank	Percentage of share of market
Acme	242,627	1	13.15	357,557	1	15.69
Rainier	219,321	2	11.89	249,840	2	10.97
Los Angeles Brew	150,805	3	8.17	189,786	4	8.33
General	134,707	4	7.30	226,150	3	9.93
Aztec	131,598	5	7.13	130,798	6	5.74
Golden West	103,316	6	5.60	113,502	7	4.98
S. F. Brewing	97,895	7	5.31	131,741	5	5.78
Regal Amber	87,213	8	4.73	99,537	9	4.37
Humboldt	83,788	9	4.54	89,508	10	3.93
Balboa	67,691	10	3.67	37,692	16	1.65
Maier	63,793	11	3.46	78,298	11	3.44
Grace	62,045	12	3.36	105,886	8	4.65
Buffalo	50,770	13	2.75	65,754	12	2.89
Pacific	47,498	14	2.57	51,876	13	2.28
Vernon	35,551	15	1.93	40,874	15	1.79
El Dorado	33,489	16	1.81	45,345	14	1.99
St. Claire	31,545	17	1.71	35,686	18	1.57
Ambassador	31,339	18	1.70	36,855	17	1.62
Eckert	22,466	19	1.22	22,747	20	1.00
Globe	22,289	20	1.21	17,363	24	.76
Fresno	21,034	21	1.14	19,386	21	.85
Monterey	17,573	22	.95	13,429	25	.59
El Rey	13,081	23	.71	29,342	19	1.29
Salinas	12,094	24	.66	17,366	23	.76
Imperial	11,405	25	.62	6,877	29	.30
West Coast	9,669	26	.52	19,356	22	.85
Lynwood	9,011	27	.49	9,401	28	.41
Hollywood	8,079	28	.44	252	34	.01
Modesto	7,490	29	.41	9,830	27	.43
Yosemite	6,688	30	.36	6,133	30	.27
North Star	3,394	31	.18	90	35	.004
Anchor	2,492	32	.14	3,847	32	.17
Bailey	2,070	33	.11	----	----	----
Rio	886	34	.05	4,284	31	.19
W. L. & Gutsch	372	35	.02	1,437	33	.06
San Diego	----	----	----	10,553	26	.46
	1,845,084	----	----	2,278,378	----	----

	1937			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Acme	437,875	381,560	1	16.11
Ranier	319,406	286,685	2	12.10
General	268,264	248,392	3	10.49
Los Angeles Brew	236,569	232,508	4	9.82
Golden West	133,044	129,394	5	5.46
S. F. Brew	129,643	120,609	6	5.09
Aztec	119,213	107,346	7	4.53
Pacific Malt	104,244	95,529	8	4.03
Regal Amber	101,046	95,171	9	4.02
Grace	99,131	93,290	10	3.94
Maier	88,807	88,262	11	3.73
Buffalo	72,749	70,616	12	2.98
Humboldt	78,383	65,490	13	2.77
Balboa	49,364	46,478	14	1.96
El Dorado	45,283	45,232	15	1.91
Vernon	45,092	45,174	16	1.91
Eckert	34,279	33,657	17	1.42
St. Claire	30,878	30,515	18	1.29
Ambassador	27,408	27,355	19	1.16
El Rey	27,388	25,534	20	1.08
San Diego	17,780	17,773	21	.75
Fresno	16,750	16,750	22	.71
Globe	17,001	16,583	23	.70
Salinas	12,467	12,454	24	.53
Modesto	10,209	10,220	25	.43
Imperial	9,423	9,423	26	.40
West Coast	8,057	8,052	27	.34
Anchor	3,021	3,014	28	.13
Lynwood	1,787	1,784	29	.06
Gufsch	1,198	1,198	30	.05
Standard	1,195	1,195	31	.05
Monterey (Los Angeles)	915	902	32	.04
Rio	477	477	33	.02
	2,549,006	2,368,562		

	1938			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Acme	440,636	377,355	1	15.58
Ranier	296,270	267,683	2	11.05
Los Angeles Brew	259,926	257,043	3	10.61
Imports		230,781	4	9.53
General	253,022	225,800	5	9.32
Golden West	124,189	120,513	6	4.98
Pacific	115,176	108,176	7	4.47
Grace	102,621	100,708	8	4.16
Regal Amber	99,301	94,220	9	3.89
Aztec	101,165	90,176	10	3.72
S. F. Brewing	88,870	82,652	11	3.41
Maier	76,239	75,809	12	3.13
Monarch (Balboa)	71,301	69,340	13	2.86
Buffalo	59,428	58,351	14	2.41
Vernon	36,142	35,530	15	1.47
El Dorado	35,109	35,109	16	1.45
Humboldt	42,297	31,747	17	1.31
Eckert	30,712	30,324	18	1.25
Ambassador	23,498	23,496	19	.97
St. Claire	23,890	23,455	20	.97
Albion (El Rey)	19,440	18,883	21	.78
San Diego	18,568	18,420	22	.76
Fresno	13,929	13,929	23	.58
Monterey (Salinas)	12,703	12,693	24	.52
Globe	5,507	5,412	25	.22
Red Bluff	4,716	4,716	26	.19
Modesto	3,889	3,889	27	.16
Anchor	2,487	2,487	28	.10
Rollinson (West Coast)	1,587	1,534	29	.06
Kern	1,155	1,155	30	.05
Lynwood	277	277	31	.01
Imperial	212	212	32	.01
Yosemite	122	122	33	.005
	2,367,384	2,421,997		

	1939		
	California sales barrels	Rank	Percentage of share of market
Acme	428,177	1	17.21
Rainier	302,784	2	12.17
Los Angeles Brew	280,246	3	11.26
Imports	235,690	4	9.47
General	209,565	5	8.42
Regal Amber	129,809	6	5.22
Golden West	109,617	7	4.41
Grace	103,002	8	4.14
Pacific	102,882	9	4.14
S. F. Brewing	94,745	10	3.81
Aztec	87,512	11	3.52
Maier	82,018	12	3.30
Monarch	66,510	13	2.67
Buffalo	47,125	14	1.89
Eckert	32,522	15	1.31
Vernon	30,039	16	1.21
El Dorado	28,083	17	1.13
Albion	18,221	18	.73
Fresno	16,456	19	.66
Ambassador	15,820	20	.64
Humboldt	14,747	21	.59
San Diego	14,149	22	.57
St. Claire	12,711	23	.51
Monterey	10,410	24	.42
Red Bluff	4,938	25	.20
Kern	4,815	26	.19
Anchor	2,631	27	.11
Yosemite	2,355	28	.09
Globe	116	29	.005
Rollison	115	30	.005
Total	2,487,810		

No export sales figures for 1939.

	1940			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Acme	532,226	452,952	1	18.41
Rainier	363,290	309,655	2	12.59
Los Angeles Brew	302,787	299,836	3	12.19
Imports		244,067	4	9.92
General	218,295	211,200	5	8.58
Regal Amber	149,536	143,791	6	5.84
S. F. Brewing	143,323	119,309	7	4.84
Pacific	100,845	97,602	8	3.97
Grace	97,940	95,236	9	3.87
Aztec	104,765	91,900	10	3.74
Golden West	89,973	84,471	11	3.43
Maier	67,679	67,230	12	2.73
Monarch	65,138	64,557	13	2.62
Buffalo	35,002	34,592	14	1.41
Eckert	32,075	32,075	15	1.30
Vernon	28,282	27,303	16	1.11
El Dorado	24,714	24,714	17	1.00
Fresno	17,290	17,290	18	.70
Eagle (Albion)	14,749	14,503	19	.59
Monterey	11,498	11,498	20	.47
San Diego	11,275	11,275	21	.46
Anchor	2,160	2,160	22	.09
Ambassador	1,811	1,805	23	.07
Red Bluff	873	873	24	.04
Kern	300	300	25	.01
Yosemite	231	231	26	.009
Humboldt	65	32	27	.00
	2,416,122	2,460,457		

	1941			1942		
	Calif. sales barrels	Rank	Percentage of share of market	Calif. sales barrels	Rank	Percentage of share of market
Acme	537, 951	1	20. 05	719, 684	1	20. 89
Rainier	339, 328	2	12. 65	400, 631	5	11. 63
Los Angeles Brew	323, 886	3	12. 07	414, 680	3	12. 04
Imports	296, 497	4	11. 05	510, 900	2	14. 83
General	276, 956	5	10. 32	414, 617	4	12. 03
Regal Amber	170, 065	6	6. 34	220, 532	6	6. 40
S. F. Brew	120, 346	7	4. 49	142, 890	8	4. 15
Aztec	114, 311	8	4. 26	156, 629	7	4. 55
Pacific	106, 047	9	3. 95	125, 200	10	3. 63
Grace	81, 885	10	3. 05	129, 122	9	3. 75
Golden West	73, 571	11	2. 74	72, 105	11	2. 09
Maier	50, 600	12	1. 89	32, 089	13	. 93
Monarch	44, 576	13	1. 66	220	23	. 007
Buffalo	29, 350	14	1. 09	8, 085	16	. 23
Eckert	27, 498	15	1. 02	35, 632	12	1. 03
Vernon	23, 820	16	. 89	16, 153	15	. 47
El Dorado	20, 104	17	. 75	26, 141	14	. 76
Fresno	14, 095	18	. 53	8, 078	17	. 23
Monterey	10, 745	19	. 40	3, 052	19	. 09
Eagle (Albion)	10, 012	20	. 37	676	22	. 02
San Diego	9, 593	21	. 36	5, 361	18	. 16
Anchor	1, 635	22	. 06	1, 418	21	. 04
U. S. Brewing				1, 603	20	. 05
	2, 682, 871			3, 445, 498		

No export sales figures for 1941 and 1942.

	1943			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Acme	1, 008, 889	861, 749	1	21. 10
Imports		552, 802	2	13. 54
Los Angeles Brew	500, 065	492, 036	3	12. 05
Rainier	586, 654	487, 990	4	11. 95
General	548, 621	470, 536	5	11. 52
Regal Amber	308, 510	254, 992	6	6. 24
S. F. Brewing	235, 040	214, 042	7	5. 24
Aztec	200, 947	167, 101	8	4. 09
Grace	164, 563	156, 917	9	3. 84
Pacific	153, 720	137, 650	10	3. 37
Golden West	112, 856	101, 709	11	2. 49
Maier	57, 986	57, 460	12	1. 41
McKee (Eckert)	46, 305	46, 305	13	1. 13
Fresno	37, 073	35, 958	14	. 88
El Dorado	30, 795	30, 795	15	. 75
U.S. Brewing	15, 895	14, 091	16	. 35
Anchor	1, 479	1, 387	17	. 03
	4, 008, 898	4, 083, 520		

	1944			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Acme	1,309,853	1,115,722	1	23.79
Imports		585,524	2	12.49
Rainier	637,654	535,539	3	11.42
Los Angeles Brew	540,809	531,805	4	11.34
General	567,684	497,166	5	10.66
Regal Amber	320,871	287,504	6	6.13
S.F. Brewing	264,438	243,810	7	5.20
Aztec	212,564	197,324	8	4.21
Grace	193,742	192,292	9	4.10
Pacific	160,039	148,290	10	3.12
Golden West	112,170	104,067	11	2.22
Maier	68,366	67,536	12	1.44
Fresno	57,642	57,642	13	1.23
McKee	57,614	55,961	14	1.19
U.S. Brewing	42,291	36,159	15	.77
El Dorado	32,349	32,349	16	.69
Anchor	73,509	2,463	17	.05
	4,681,895	4,689,153		

	1945			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Acme	1,360,222	1,152,582	1	22.21
Imports		827,307	2	15.94
Rainier	652,989	568,538	3	10.96
General	599,421	564,800	4	10.88
Los Angeles Brew	552,846	545,604	5	10.51
Regal Amber	313,011	304,621	6	5.87
S. F. Brew	268,654	260,104	7	5.01
Aztec	248,333	224,414	8	4.32
Grace	166,722	166,722	9	3.21
Pacific	153,112	151,789	10	2.92
Golden West	147,193	147,193	11	2.84
Maier	90,822	90,479	12	1.74
McKee	59,008	56,811	13	1.09
Fresno (Grace)	52,525	52,525	14	1.01
El Dorado	32,935	32,935	15	.63
U.S. Brewing	37,223	30,390	16	.59
Buffalo	10,758	10,758	17	.21
Anchor	3,025	2,231	18	.04
	4,749,799	5,189,743		

	1946			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Acme	1,179,907	1,013,760	1	20.76
Imports		911,544	2	18.67
General	558,600	540,043	3	11.06
Rainier	547,774	508,337	4	10.41
Los Angeles Brew	495,952	493,334	5	10.10
Regal Amber	308,278	301,292	6	6.17
S. F. Brew	249,704	240,634	7	4.93
Aztec	228,332	214,914	8	4.40
Pacific	139,448	139,030	9	2.85
Golden West	133,319	133,319	10	2.73
Grace	127,345	127,345	11	2.61
Maier	86,747	86,747	12	1.78
McKee	50,736	48,902	13	1.00
Fresno	43,469	43,469	14	.89
U.S. Brewing	36,073	28,956	15	.59
El Dorado	25,834	25,834	16	.53
Buffalo	22,013	22,013	17	.45
Anchor	4,506	3,503	18	.07
	4,238,037	4,883,066		

	1947			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Imports		1,261,433	1	23.06
Acme	1,159,322	988,823	2	18.08
General	658,255	633,952	3	11.59
Los Angeles Brew	602,098	598,803	4	10.95
Rainier	448,469	388,922	5	7.11
Regal Amber	360,432	357,033	6	6.53
S.F. Brewing	363,149	353,259	7	6.44
Aztec	229,983	224,039	8	4.10
Pacific	201,287	201,087	9	3.68
Maier	148,714	144,360	10	2.64
Grace	127,403	118,642	11	2.17
Golden West	119,173	112,711	12	2.06
El Dorado	33,214	33,214	13	.61
McKee	32,728	32,728	14	.60
Buffalo	12,185	12,185	15	.22
U.S. Brewing	4,542	4,013	16	.07
Fresno	3,910	3,910	17	.07
Anchor	2,174	1,187	18	.04
	4,516,138	5,470,401		

	1948			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Imports		1,280,414	1	24.83
Los Angeles Brewing	750,558	748,929	2	14.52
Acme	862,873	696,258	3	13.50
Lucky Lager (General)	680,720	659,310	4	12.79
Regal Amber	470,155	458,900	5	8.90
S. F. Brewing	461,807	451,560	6	8.76
Pacific	190,533	190,381	7	3.69
Rainier	224,410	173,735	8	3.37
Altes (Aztec)	154,354	152,009	9	2.95
Maier	144,210	142,477	10	2.76
Golden West	86,432	79,886	11	1.55
Grace	116,211	72,988	12	1.42
El Dorado	25,541	25,541	13	.50
Eckert (McKee)	11,190	11,190	14	.22
Buffalo	7,814	7,814	15	.15
U.S. Brewing	2,328	2,328	16	.05
Anchor	1,892	1,892	17	.04
Fresno	749	749	18	.01
	4,191,777	5,156,361		

	1949			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Imports		1,123,387	1	22.09
Lucky Lager	840,932	817,032	2	16.07
Los Angeles	794,955	794,131	3	15.62
Acme	651,489	567,196	4	11.15
Regal Amber	572,056	562,696	5	11.07
S. F. Brew	496,478	488,611	6	9.61
Pacific	165,681	162,441	7	3.19
Rainier	168,372	151,504	8	2.98
Altes	142,689	142,483	9	2.80
Maier	114,100	111,790	10	2.20
Grace	76,871	72,309	11	1.42
Golden West	61,271	57,734	12	1.14
El Dorado	25,977	25,977	13	.51
Eckert	4,471	4,471	14	.09
Anchor	2,123	2,123	15	.04
Buffalo	800	800	16	.02
	4,118,265	5,084,685		

	1950			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Lucky Lager	1,074,442	1,035,358	1	19.75
Imports		1,015,752	2	19.38
Los Angeles Brew	686,358	684,690	3	13.06
S. F. Brew	623,426	607,302	4	11.59
Regal Amber	551,535	544,538	5	10.39
Acme	501,060	496,273	6	9.47
Maier	210,416	210,015	7	4.01
Goebel (Golden West)	187,181	184,571	8	3.52
Pacific	139,221	137,716	9	2.63
Rainier	127,784	120,296	10	2.30
Altes	110,827	110,399	11	2.11
Grace	65,662	64,380	12	1.23
El Dorado	27,797	27,797	13	.53
Anchor	2,406	2,406	14	.05
	4,368,415	5,241,493		

	1951			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Imports		1,057,105	1	19.48
Lucky Lager	1,095,477	1,040,193	2	19.17
S. F. Brew	837,750	806,236	3	14.86
Los Angeles Brew	580,351	576,793	4	10.63
Regal Amber	541,756	523,157	5	9.64
Acme	493,864	441,758	6	8.14
Maier	358,196	358,196	7	6.60
Goebel	218,231	213,810	8	3.94
Pacific	115,729	115,172	9	2.12
Rainier	119,933	112,945	10	2.08
Altes	92,398	92,370	11	1.70
Grace	63,607	62,833	12	1.16
El Dorado	24,220	24,220	13	
Anchor	1,988	1,988	14	.04
	4,543,590	5,426,776		

	1952			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Lucky Lager	1,307,755	1,221,743	1	21.59
Imports		1,103,194	2	19.49
S. F. Brewing	996,416	941,380	3	16.99
Regal Amber	572,159	556.272	4	9.83
Los Angeles Brew	555,398	553,497	5	9.78
Acme	426.048	388,904	6	6.87
Maier	369,671	369,671	7	6.53
Goebel	221,830	208,083	8	3.68
Rainier	89,981	83,923	9	1.48
Wielands (Pacific)	84,552	82,420	10	1.46
Grace	56,711	56,711	11	1.00
Altes	50,221	50,221	12	.89
El Dorado	22,076	22,076	13	.39
Anchor	1,595	1,595	14	.03
	4,754,413	5,659,690		

	1953			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Lucky Lager	1,532,412	1,378,149	1	23.46
Imports		1,106,553	2	18.84
S. F. Brewing	1,017,997	946,817	3	16.12
Regal Amber	601,803	585,646	4	9.97
Pabst (Los Angeles Brew.)	597,932	571,843	5	9.74
Acme	398,028	363,094	6	6.18
Maier	321,617	319,884	7	5.45
Falstaff (Wielands)	327,672	316,790	8	5.39
Goebel	271,710	172,545	9	2.94
Rainier	48,290	44,035	10	.75
Grace	43,032	42,951	11	.73
El Dorado	17,162	17,162	12	.29
Altes	6,572	6,572	13	.11
Anchor	1,591	1,591	14	.03
	5,185,818	5,873,632		

	1954			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Lucky Lager	1,570,493	1,396,827	1	23.91
S.F. Brewing	1,041,100	953,029	2	16.32
Imports	----------	709,960	3	12.15
Pabst	752,745	601,527	4	10.30
Regal Pale (Regal Amber)	607,607	595,852	5	10.20
Falstaff	347,073	323,793	6	5.54
Rheingold (Acme L.A.)	274,813	269,501	7	4.61
Maier	233,650	228,683	8	3.91
Hamm's (Rainier)	225,027	217,939	9	3.73
Schlitz	290,638	140,359	10	2.40
Anheuser-Busch	269,273	126,129	11	2.16
California Brew. (Acme, S.F.)	136,058	121,002	12	2.07
Goebel	144,873	107,940	13	1.85
Grace	33,172	33,164	14	.57
El Dorado	14,061	14,061	15	.24
Anchor	1,584	1,584	16	.03
	5,942,167	5,841,350	----------	----------

	1955			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Lucky Lager	1,606,813	1,388,347	1	22.89
S. F. Brewing	1,071,003	977,561	2	16.12
Imports	----------	681,765	3	11.24
Hamm's	711,612	606,309	4	10.00
Regal Pale	619,009	597,095	5	9.84
Pabst	613,036	541,693	6	8.93
Falstaff	337,864	283,047	7	4.67
Anheuser-Busch	451,910	256,234	8	4.22
Schlitz	508,107	243,190	9	4.01
Maier	224,744	216,957	10	3.58
Rheingold	138,222	135,635	11	2.24
Goebel	108,692	80,912	12	1.33
Grace	32,510	31,552	13	.52
California Brewing	24,320	18,479	14	.30
El Dorado	4,054	4,054	15	.07
Anchor	2,214	2,214	16	.04
	6,454,110	6,065,044	----------	----------

	1956			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Lucky Lager	1,719,714	1,436,720	1	22.79
Burgermeister (S.F. Brew.)	1,072,203	943,762	2	14.97
Imports		838,419	3	13.30
Hamm's	824,322	757,130	4	12.01
Pabst	664,834	607,879	5	9.64
Regal Pale	572,749	553,325	6	8.78
Anheuser-Busch	537,408	323,716	7	5.13
Falstaff	322,131	268,235	8	4.25
Schlitz	501,284	264,860	9	4.20
Maier	153,661	137,884	10	2.19
Rheingold	96,263	92,270	11	1.46
Southern (Grace)	51,861	50,860	12	.81
California Brewing	21,797	17,393	13	.28
Goebel	10,890	10,013	14	.16
Anchor	2,235	2,235	15	.04
	6,511,352	6,304,701		

	1957			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Lucky	1,716,897	1,414,789	1	21.57
Imports		1,014,282	2	15.46
Burgermeister	971,291	887,798	3	13.53
Hamm's	892,319	845,910	4	12.90
Pabst	573,795	538,511	5	8.21
Regal Pale	464,449	452,062	6	6.89
Falstaff	497,158	441,849	7	6.74
Anheuser Busch	576,271	369,020	8	5.63
Schlitz	517,237	283,692	9	4.32
Maier	220,016	195,109	10	2.97
Southern	71,825	67,922	11	1.04
Rheingold	31,938	30,754	12	.47
California	20,270	15,114	13	.23
Anchor	2,825	2,825	14	.04
	6,556,291	6,559,637		

	1958			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Lucky Lager	1,877,022	1,553,338	1	22.39
Imports		1,284,421	2	18.51
Burgermeister	967,113	886,359	3	12.78
Hamm's	851,472	766,512	4	11.05
Pabst	609,969	580,278	5	8.36
Falstaff	490,706	431,553	6	6.22
Regal Pale	432,405	425,744	7	6.14
Anheuser-Busch	584,244	383,894	8	5.53
Maier	329,089	297,642	9	4.29
Schlitz	477,927	273,331	10	3.94
Grace Bros	22,729	20,635	11	.30
Southern	19,067	18,491	12	.27
California Brewing	17,578	13,205	13	.19
Anchor	2,412	2,412	14	.03
	6,681,733	6,937,815		

	1959			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Imports		1,485,482	1	19.96
Lucky Lager	1,812,524	1,466,894	2	19.73
Hamm's	1,080,104	951,603	3	12.80
Burgermeister	973,837	887,106	4	11.93
Pabst	592,783	555,918	5	7.48
Anheuser-Busch	790,579	474,893	6	6.39
Falstaff	539,359	463,912	7	6.24
Maier	426,060	396,541	8	5.33
Regal Pale	342,572	338,244	9	4.55
Schlitz	506,739	292,559	10	3.94
Grace	77,367	74,083	11	1.00
Pacific	47,199	45,025	12	.61
Anchor	1,251	1,251	13	.02
	7,190,374	7,433,511		

	1960			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Lucky Lager	1,719,159	1,320,480	1	17.6
Hamm's	1,117,314	977,865	2	13.0
Burgermeister	891,324	805,289	3	10.7
Olympia	----------	745,663	4	9.9
Pabst	586,306	545,373	5	7.3
Anheuser-Busch	775,772	511,507	6	6.8
Maier	523,215	491,426	7	6.5
Coors	----------	476,656	8	6.3
Falstaff	509,825	416,703	9	5.5
Regal Pale	312,524	309,541	10	4.1
Schlitz	489,836	293,238	11	3.9
Miller	----------	205,200	12	2.7
Other U.S. imports	----------	144,723	13	1.9
Grace	122,044	118,665	14	1.6
Sicks' Rainier	----------	61,853	15	0.8
Outside U.S. imports	----------	42,217	16	0.6
Fisher	----------	22,417	17	0.3
Carling	----------	15,525	18	0.2
Arizona	----------	12,751	19	0.2
Pacific	6,325	6,235	20	0.1
Steam Beer (Anchor)	383	383	21	0.0
	7,054,027	7,523,710	----------	----------

	1961			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Lucky Lager	1,758,884	1,336,731	1	17.3
Hamm's	1,092,755	943,827	2	12.5
Olympia	----------	771,658	3	10.0
Coors	----------	717,511	4	9.3
Burgermeister	726,533	653,898	5	8.5
Pabst	695,855	642,218	6	8.3
Anheuser-Busch	896,899	526,241	7	6.8
Maier	484,767	457,525	8	5.9
Falstaff	492,865	385,893	9	5.0
Schlitz	460,141	283,278	10	3.6
Miller	----------	231,067	11	3.0
Regal Pale	222,844	219,834	12	2.8
Other U.S. imports	----------	156,266	13	2.0
Grace	154,890	150,808	14	1.9
Fisher	----------	80,242	15	1.0
Sicks' Rainier	----------	62,677	16	.8
Outside U.S. imports	----------	47,120	17	.6
Arizona	----------	28,667	18	.4
Carling	----------	19,471	19	.3
Steam Beer (Anchor)	1,633	1,633	20	0.0
	6,988,066	7,716,565	----------	----------

	1962			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Lucky Lager[1]	1,589,716	1,333,185	1	16.4
Hamm's	1,175,914	1,012,495	2	12.4
Schlitz[2]	1,219,995	996,983	3	12.3
Coors		982,924	4	12.1
Olympia		847,570	5	10.4
Pabst	779,312	648,863	6	8.0
Anheuser-Busch	1,074,319	577,282	7	7.1
Maier	489,197	463,825	8	5.7
Falstaff	512,655	389,650	9	4.8
Miller		234,855	10	2.9
Regal Pale	196,265	190,590	11	2.3
Other U.S. imports		150,104	12	1.8
Grace	142,461	137,433	13	1.7
Sicks' Rainier		67,350	14	0.8
Outside U.S. imports		48,536	15	0.6
Arizona		29,042	16	0.4
Carling		21,691	17	0.3
Steam Beer	1,726	1,726	18	0.0
	7,121,560	8,134,104		

[1] Lucky Lager figures include Fisher.
[2] Schlitz figures include Burgermeister.

	1963			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Coors		1,193,795	1	13.8
General (Lucky)	1,487,881	1,169,151	2	13.7
Schlitz	1,419,250	1,120,482	3	13.1
Anheuser Busch	1,333,367	1,033,218	4	12.0
Hamm's	1,201,119	992,580	5	11.5
Olympia		837,440	6	9.7
Pabst	775,214	661,670	7	7.7
Maier	596,656	566,983	8	6.6
Falstaff	474,594	350,835	9	4.1
Miller		227,821	10	2.6
U.S. imports		155,171	11	1.8
Grace	135,462	131,146	12	1.5
Sicks' Rainier		67,301	13	.7
Outside U.S. imports		57,358	14	.7
Arizona		29,185	15	.3
Carling		24,840	16	.2
Steam Beer	1,326	1,326	17	.0
Regal Pale	56	56	18	.0
	7,424,925	8,620,358		

	1964			
	California sales and exports	California sales barrels	Rank	Percentage of share of market
Coors		1,496,008	1	16.3
Olympia		1,109,549	2	12.1
Schlitz	1,286,931	1,036,762	3	11.3
General Brewing	1,219,071	1,033,087	4	11.3
Anheuser-Busch	1,303,716	1,002,334	5	11.0
Hamm's	1,099,117	891,524	6	9.7
Maier	682,699	654,913	7	7.2
Pabst	659,640	551,598	8	6.0
Miller		382,891	9	4.2
Falstaff	405,755	319,161	10	3.5
Other U.S. imports		263,209	11	2.9
Grace	152,726	147,451	12	1.6
Sicks' Rainier		90,969	13	1.0
Outside U.S. imports		76,109	14	.8
Carling		49,967	15	.6
Arizona		45,907	16	.5
Steam Beer	1,469	1,469	17	0.0
	6,781,124	9,152,908		

APPENDIX D

15. *Sales of Beer in Hawaii by Brewers, 1961–1963.* Below is a statistical statement of sales of beer (in number of barrels) by brewers, 1961–1963, in Hawaii, which is hereby authenticated, and it is stipulated that it is evidence of the matters therein recited:

Sales (in barrels) of beer in Hawaii—1961–1963

Brewer	1961	1962	1963
American Brewing Co.[1]	3,419	163	
Anheuser-Busch, Inc.[3]	17,189	18,100	19,587
Blitz-Weinhard Co.[4]			56
Carling Brewing Co., Inc.[4]	7,854	11,380	16,890
Falstaff Brewing Corp.[3]	27,837	31,336	31,964
General Brewing Co.[3]	108,381	98,414	119,719
Grace Bros. Brewing Co.[3]	1,072	780	755
Hamm's Brewing Co.[3]	2,502	7,862	8,705
Hawaii Brewing Corp.[2]	41,752	33,178	31,439
Maier Brewing Co.[3]	1,368	1,259	2,015
Miller Brewing Co.[4]	17,864	22,705	17,609
Olympia Brewing Co.[4]	6,042	8,693	12,524
Pabst Brewing Co.[3]	2,076	1,003	979
Schlitz-Burgermeister[3]	25,405	23,087	28,074
Sick's Rainier Brewing Co.[4]	103		
Total	262,864	257,960	290,316

[1] Taxpaid withdrawal figures. Final report to IRS made in 1962.
[2] Source: Department of Taxation, State of Hawaii.
[3] Source: California Brewers Association figures.
[4] Data supplied by brewer.

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